

Sponsor: Councilwoman Mann
First Reading: 10/04/21
Second Reading: 10/18/21
Third Reading: 11/01/21
Ord. No.: 013-21

**AN ORDINANCE AMENDING THE TOWN CODE OF THE TOWN OF SMYRNA TO ESTABLISH A
LODGING TAX**

WHEREAS, the Town of Smyrna is authorized pursuant to Section 4.2.50 of the Town Charter to collect a lodging tax of up to 3% on the rental of rooms at hotels, motels, and tourist homes situated within the Town;

WHEREAS, in the opinion of the Town Council, it is in the best interest of the public health, safety, and welfare to establish a 3% lodging tax on the rental of rooms at all hotels, motels, and tourist homes within the Town.

NOW THEREFORE, BE IT HEREBY ENACTED by the Town Council of the Town of Smyrna, a majority thereof concurring in Council duly met, that Chapter 62 (Taxation), Article I (In General) be and hereby is amended as follows:

Section 1. Amend Article I (In General) by making insertions as shown by underline and deletions as shown by strikethrough as follows:

~~Secs. 62-3—62-25. —Reserved.~~

Sec. 62-3. Lodging Tax.

(a) A lodging tax of three (3%) percent shall be paid on all rent for the occupancy of any room or rooms in a hotel, motel, or tourist home located within the boundaries of the Town, as the same are defined in 30 Del. C. § 6101. The payment of the lodging tax shall be the responsibility of the person who owns the property being rented; provided, however, that such person may designate an agent to collect and pay the tax to the Town.

(b) For purposes of this Section 62-3, the terms below shall have the following meanings:

“Occupancy” means the use or possession or the right to the use or possession by any person other than a permanent town resident of any room or rooms in a hotel, motel, or tourist home for any purpose.

“Person” shall mean any individual, natural person, joint-stock company, partnership, voluntary association, society, club, firm, company, corporation, business trust, organization, or any other group acting as a unit, or the manager, lessee, agent, servant, partner, member, director, officer or employee of any of them, including an executor, administrator, trustee, receiver, or other representative appointed according to law.

“Rent” means the consideration received for occupancy valued in money, whether received in money or otherwise, including all receipts, cash credits and property or services of any kind or nature.

(c) Every person receiving any rent on which the lodging tax is imposed under subsection (a) shall file, or have filed by a designated agent, a lodging tax report with the Town Manager and pay the Town Manager the full amount of the lodging tax due the Town. The lodging tax report and the lodging tax on rent received in any month shall be due and payable on or before the 15th day of the month following the month in which the rent was received.

(d) All revenue generated by the lodging tax shall be earmarked for operating and capital expenses associated with public safety services.

(e) The lodging tax report form may be furnished by the Town Manager to the owner of the rental property, or designated agent thereof, at the time of issuance of the license required by Chapter 49 (Business Licenses) of this Code, but it is ultimately the responsibility of the rental property owner to obtain a lodging tax report form from the Town Manager.

(f) The contents of the lodging tax report shall be kept confidential by the Town as permitted by applicable state and federal law.

(g) Any person obligated to pay the lodging tax imposed and assessed by this section who fails or refuses to file the required lodging tax report and remit the lodging tax required to be paid within the time and in the amount specified in subsections (a) and (c) herein, unless it is shown that such failure is due to reasonable cause, shall be charged, in addition to the lodging tax owed to the Town, interest thereon at the rate of 1½% per month until such debt is fully paid. If such lodging tax remains unpaid by the time of expiration of the business license issued to rent the accommodations for which the lodging tax has not be paid, a renewal business license shall not be issued until the lodging tax and interest have been paid in full.

Secs. 62-4—62-25. – Reserved.

Section 2. Severability. The provisions of this Ordinance shall be severable. If any provisions of this Ordinance are found by any court of competent jurisdiction to be unconstitutional or void, the remaining provisions of this Ordinance shall remain valid, unless the court finds that the valid provisions of this Ordinance are so essentially and inseparably connected with, and so dependent upon, the unconstitutional or void provision that it cannot be presumed that the Town Council would have enacted the remaining valid provisions without the unconstitutional or void provision; or unless the court finds that the remaining valid provisions, standing alone, are incomplete and incapable of being executed in accordance with Town Council’s intent.

Section 3. Effective Date. This Ordinance shall become effective immediately on July 1, 2022.

SYNOPSIS

This ordinance establishes a 3% lodging tax on all rooms rented at hotels, motels, and tourist homes, as defined in 30 Del. C. § 6101. This ordinance requires lodging taxes and the associated reports to be filed by the 15th day of the month following the month in which the lodging taxes were collected. Failing to pay the lodging tax by the prescribed deadline will result in a 1 ½ percent penalty each month, and all revenues collected are to be earmarked for public safety expenses. A business license will not be renewed if lodging taxes remain outstanding. The lodging tax established by this ordinance shall go into effect on July 1, 2022.

This will certify that this is a true and correct copy of the Ordinance duly adopted by the Town Council of the Town of Smyrna at its regular Council meeting on _____, 2021.

ATTEST:

Council Secretary

Mayor

This shall certify that the title and synopsis of this Ordinance was published in the "Smyrna/Clayton Sun Times" on _____, 2021 and posted at the Town Hall on _____, 2021.

So Certifies:

Town Clerk